

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Improving Spectrum Efficiency Through)	WT Docket No. 12-64
Flexible Channel Spacing and Bandwidth)	
Utilization for Economic Area-based 800)	
MHz Specialized Mobile Radio Licensees)	
)	
Request for Declaratory Ruling that the)	WT Docket No. 11-110
Commission Rules Authorize Greater than)	
25 kHz Bandwidth Operations in the 817-)	
824/862-869 MHz Band)	

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

Orange County Sheriff's Department

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The Wireless Telecommunications Bureau should not exercise its delegated authority to dismiss the Petition for Reconsideration¹ filed by the Orange County's Sheriff's Department ("OCSD") based on the contention that OCSD did not participate in the *800 MHz Broadband NPRM*² and that no new information has been raised. OCSD's Petition is not procedurally defective, and further Commission inquiry into the interference issues raised by OCSD and other commenters will not lead to a slippery slope of administrative inefficiency and fundamental unfairness. New and well-documented interference issues have been raised that have impacted and will impact the most populous region in the United States and the first responders that serve this region.

I. OCSD HAS PRESENTED NEW INFORMATION AND CONSIDERATION OF THE FACTS RELIED ON IS REQUIRED IN THE PUBLIC INTEREST

In its Petition, OCSD provided sufficient explanation as to why OCSD and this region did not participate in the *800 MHz Broadband NPRM*.³ It is a mischaracterization by the opposition comments that OCSD "waited" to file comments and that it has "ignored" important requirements of section 1.429.⁴ OCSD has previously explained that since January 2012, when OCSD received a generalized letter from Sprint Nextel notifying OCSD of future deployment in the Greater Los Angeles region, that it had been diligent in communicating its concerns to Sprint

¹ Petition for Reconsideration and Informal Interference Complaint Regarding AT&T Mobility and Sprint Nextel, filed by the Orange County Sheriff's Department, WT Docket No. 12-64, WT Docket No. 11-110 (July 9, 2012) (*Petition*).

² *Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees; Request for Declaratory Ruling that the Commission's Rules Authorize Greater than 25 kHz Bandwidth Operations in the 817-824/862-869 MHz Band*, Notice of Proposed Rulemaking, 27 FCC Rcd 2742 (2012) (*800 MHz Broadband NPRM* or *NPRM*).

³ Petition at 2-4.

⁴ Opposition Comments of Sprint Nextel Corporation at 3 and 5.

Nextel and the Commission, even prior to the initiation of the *NPRM*. OCSD addressed the requirements of section 1.429(b) and cited the public interest considerations and the new information it was presenting that necessitated reconsideration.⁵ OCSD recognizes the goals of procedural regularity, administrative efficiency and fundamental fairness that guide Commission rulemaking proceedings. However, opposition comments paint with too broad a brush by asserting that OCSD's entire Petition should not be addressed at all.

The San Diego County Sheriff's Department also raises new information in its reply to opposition comments that the County of San Diego has recently identified potential cases of 800 MHz interference that are under review.⁶ The public safety community has also been monitoring the recent interference events that have transpired in the City of Oakland, which indicate harmful interference in the 800 MHz band. These cases combined with OCSD's informal complaint show that extenuating circumstances exist that should be considered by the Commission.

There is nothing in the Commission's rules that contains an outright prohibition on petitions for reconsideration filed by parties that did not formally participate in the preceding rulemaking. While the Commission has set forth legitimate policy goals for limiting arguments in petitions for reconsideration, the Commission has based its decisions on a case-by-case basis examining the factual circumstances as well as the public interest. There is a reason why section 1.429(b) allows for new information and petitions that are in the public interest.

Opposition comments baldly point to a slippery slope of inefficiency and unfairness, but do not specifically articulate how such inefficiency and unfairness apply in this case or how

⁵ Petition at 6-12 and Exhibit A. Section II.B and Exhibit A of the Petition describe new information that had been received regarding interference the County was receiving from W-CDMA technology used by AT&T Mobility at 869 MHz. Section II.C of the Petition contended that the public interest warranted reconsideration.

⁶ Reply to Opposition Comments of San Diego County Sheriff's Department at 5.

Sprint Nextel will be affected exactly. Opposition comments very generally cite to certainty in conducting business affairs, but do not point to any timeline for expedited deployment of wideband CDMA in the U.S-Mexico border region that would be hampered by inquiry into and consideration of new facts and other public interest issues.⁷ Consequently, it is OCSD's understanding that Sprint Nextel will not be immediately deploying wideband operations in Orange County, and possibly the Southern California region, for up to two years, and therefore, the Commission could investigate this matter and decide the Petition on the merits with marginal effect. And, it would be inefficient and fundamentally unfair to public safety to dismiss OCSD's Petition on procedural grounds without an inquiry into the described interference and consideration of the Petition on the merits.

II. RECONSIDERATION ISSUES WERE NOT FULLY ADDRESSED IN THE PROCEEDING

Opposition comments assert that OCSD is attempting to re-litigate all of the issues and that the record was adequate and well-founded.⁸ However, OCSD and the Public Safety Licensees raised concern that Sprint Nextel's intermodulation study could not be verified due to the lack of filter specifications.⁹ OCSD and the Public Safety Licensees have also raised issue that near/far interference was not at all addressed in the proceeding, and OCSD suggested that the Commission should conduct a third party independent analysis of this study. The Commission only examined out of band emissions (OOBE) and intermodulation.

In addition, opposition comments state that the *800 MHz Report and Order* did contemplate early testing and deployment of wideband operations prior to reconfiguration.

⁷ Opposition of Sprint Nextel at 4.

⁸ *Id.* at 9.

⁹ Comments of Public Safety Licensees at 7.

However, Sprint Nextel's citations to the *800 MHz Report & Order* are actually to Commission statements regarding specific technical parameters and other technological limitations that were suggested by commenters to control interference (which the Commission declined to approve), and were not express statements as to allowing an ESMR licensee early entry into spectrum that hadn't been reconfigured.¹⁰ Furthermore, an ex parte presentation by Sprint Nextel that it intended to deploy broadband in the future does not equate with support by the Commission that the agency acknowledged and contemplated early deployment during reconfiguration.¹¹ If these statements are to be interpreted as Sprint Nextel suggests, then it is OCSD's assumption that they would have been cited and raised during Sprint Nextel's request for waivers and STAs.

Opposition comments further note that AT&T Mobility operates a GSM network. While AT&T may generally operate a GSM network, RF engineers for OCSD detected a W-CDMA signature at the two interfering sites based on a spectral analysis. No matter the wideband technology used, OCSD's concern is less about OOBs or intermodulation products than it is about the probability of desensitization of public safety receivers by strong signals emanating from a carrier's spectrum only a few megahertz away from the public safety band. OCSD has documented cases of interference to 800 MHz channels licensed to the County of Orange, the County of San Diego and the City of Oakland's public safety systems from strong, out-of-band systems. The manifestation of this interference is that the receivers of public safety radios operating in the vicinity of AT&T's cellular sites, and potentially Sprint Nextel's, are desensitized to the point that they are not able to receive signals from their own systems (a manifestation of the "Near/Far" problem). It is comparable to the issue involving LightSquared (the "Near") and GPS receivers tuned to receive signals from "Far" (satellite) sources. The

¹⁰ Opposition Comments of Sprint Nextel at 9-10, footnotes 32-34.

¹¹ *Id.* at 10, footnote 33.

strong signals from LightSquared's terrestrial sites was demonstrated to cause harmful interference to virtually all GPS receivers, regardless of type or manufacturer. If Sprint Nextel's early deployment is approved, the effect could be similar, if not identical, to the interference caused by AT&T's system operating virtually the same frequency separation above the public safety band as Sprint Nextel's proposed network would be below it.

Lastly, opposition comments suggest that rapid retuning is the surest and only way to avoid and/or mitigate interference.¹² It should be noted that Orange County has been diligently pursuing the completion of 800 MHz reconfiguration. OCSD has written the Commission, NTIA and the State Department encouraging resolution of the U.S. Mexico bilateral agreement.¹³ OCSD is the only border impacted entity in the country that has a \$1M frequency reconfiguration agreement for non-frequency dependent and non-duplicative implementation activities that was approved by Sprint Nextel and a TA mediator, as well as informally by the Public Safety Bureau.

III. CONCLUSION

It should be made clear that OCSD does not oppose the deployment of ESMR wideband networks or the elimination of channel spacing and bandwidth limitations, but it does object to early testing and deployment of Sprint Nextel prior to reconfiguration in the U.S. Mexico border region. OCSD's Petition is well supported by the public safety community, and the Bureau should not dismiss the Petition on a hyper-technical contention that OCSD did not participate in the rulemaking. OCSD, and now other public safety entities, have raised new information that is

¹² Opposition Comments of Sprint Nextel at 12.

¹³ Letter from Robert Stoffel, Director, Communications and Technology Division, Orange County Sheriff's Department, to Ambassador Philip Verveer, U.S. Department of State, Lawrence Strickling, National Telecommunications and Information Administration, Roderick Porter, Federal Communications Commission (April 2, 2012).

in the public interest to consider. At the very least, the Public Safety Bureau and the Wireless Bureau should conduct a full inquiry of Sprint Nextel's intermodulation study and the interference issues raised in the Petition, and then the Commission should decide the Petition on its merits.